

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOEL S. SPIGELMAN,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CIV-13-1138-F
	)	
KENNETH WATSON, et al.,	)	
	)	
Defendants.	)	

**ORDER**

United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation on April 10, 2015, recommending that plaintiff's Motion to Dismiss Civil Rights Complaint (doc. no. 41) be deemed a motion for dismissal of the action pursuant to Fed. R. Civ. P. 41(a)(2) and be granted and that this action be dismissed without prejudice to re-filing. Magistrate Judge Erwin also recommended that plaintiff's Motion to Amend Complaint (doc. no. 35) and Defendant Kenneth Watson's Motion to Dismiss (doc. no. 39) be denied as moot.

In the Report and Recommendation, Magistrate Judge Erwin advised plaintiff of his right to file specific written objections by April 27, 2015 and further advised that failure to make timely objection to the Report and Recommendation waives the right to appellate review of the factual and legal issues addressed.


To date, plaintiff has not objected to the Report and Recommendation and has not sought an extension of time to file an objection. With no objection being filed, the court affirms the Report and Recommendation.

Accordingly, the Report and Recommendation issued by Magistrate Judge Shon T. Erwin, filed April 10, 2015 (doc. no. 42), is **AFFIRMED**. Plaintiff's Motion

to Dismiss Civil Rights Complaint (doc. no. 41), construed as a motion for dismissal of the action under Rule 41(a)(2), Fed. R. Civ. P., is **GRANTED**. Plaintiff's action against Kenneth Watson, (FBOP Employee) Gooden and John Doe (Intake Medical Staff), in their individual capacities, is **DISMISSED WITHOUT PREJUDICE**.

In light of this ruling, plaintiff's Motion for Leave to File an Amended Complaint (doc. no. 35) and Movant Kenneth R. Watson, D.O.'s Motion to Dismiss or Alternatively, Motion for Summary Judgment (doc. no. 39) is **DENIED** as **MOOT**.

DATED May 11, 2015.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE